IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO. 545 OF 2001

IN

WRIT PETITION NO. 357 OF 2001

General Educatioon Academy ... Appellant
(Org. petitioner)

Versus

Smt. Sudha V. Desai & Ors. ... Respondents
(Org.Respondents)

Mr. R.N.Salgaonkar i/b. Salgaonkar & Co. for the appellant.

None for Respondents.

CORAM: D.K.DESHMUKH &
J.H.BHATIA,JJ.

DATE : 13th August, 2007.

P.C.

1. By this Appeal, the appellant challenges the order passed by the learned Single Judge of this Court in Writ Petition No.357 of 2001. That Writ Petition was

filed by the present appellant challenging the order made by the Authorities under the Payment of Gratuity Act holding that teachers working in recognised private schools are entitled to payment of gratuity under the Payment of Gratuity Act. The learned Single Judge by his Judgment dated 16th March, 2001 confirmed the orders passed by the Authorities under the Payment of Gratuity Act and held that teachers working in recognised schools are entitled to payment of gratuity under the Payment of Gratuity Act.

2. We have heard learned Counsel for the appellant. None appears for Respondents.

3. The learned Counsel for the appellant pointed out to us the Judgment of the Supreme Court in the case of **Ahmedabad Pvt. Primary Teachers' Association vs. Administrative Officer and others,** reported in AIR 2004 SC 1426. By that Judgment, the Supreme Court has held that teachers working in schools are not employees within the meaning of the Payment of Gratuity Act and, therefore, they are not entitled to payment of gratuity under the Payment of Gratuity Act. The Judgment of the Supreme Court completely reverses the view taken by the learned Single Judge in the Judgment impugned in this Appeal.

4. In view of the Judgment of the Supreme Court in Ahmedabad Private Primary Teachers' Association, referred to above, the Appeal will have to be allowed. It is accordingly allowed. The Judgment and Order dated 16th March, 2001 passed in Writ Petition No.357 of 2001 is set aside. The Writ Petition filed by the petitioner, being Writ Petition No.357 of 2001 is granted in terms of prayer clause (a). No order as to costs.

5. In view of the above order, Notice of Motion No.780 of 2001 stands disposed of.

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(D.K.DESHMUKH,J.)

(J.H.BHATIA,J.)